

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Coyote Post Office
Coyote, New Mexico

Docket No. A2011-74

ORDER REMANDING DETERMINATION

(Issued January 10, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 12, 2011, Manuelita Trujillo, on behalf of the Concerned Citizens of the Coyote Post Office, filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Coyote, New Mexico post office (Coyote post office).² For the reasons discussed below, the Final Determination to close the Coyote post office is remanded.

II. PROCEDURAL HISTORY

On September 20, 2011, the Commission established Docket No. A2011-74 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On September 30, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the

² Petition for Review received from Manuelita Trujillo on behalf of the Concerned Citizens of the Coyote Post Office regarding the Coyote, New Mexico Post Office 87012, September 15, 2011 (Petition). The Petition was received on September 12, 2011, but was docketed on September 15, 2011. Identical petitions were received from three other members of the Concerned Citizens of the Coyote Post Office on the same day. Six additional identically worded petitions were received from six other members of the Concerned Citizens of the Coyote Post Office on September 15, 2011. The various petitioners are collectively referred to as Petitioners herein. Six pages of signatures to keep the Coyote Post Office open were also filed on September 15, 2011.

³ Order No. 861, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 20, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 30, 2011; see *also* United States Postal Service Notice of Filing, September 30, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Coyote, NM Post Office and Establish Service by Highway Contract Route Service (Final Determination).

Commission affirm its Final Determination.⁵ On November 25, the Public Representative filed a reply brief.⁶ On December 8, 2011, the Postal Service filed notice of an addendum to the Administrative Record.⁷

III. BACKGROUND

The Coyote post office provides retail postal services and service to 91 post office box customers. Final Determination at 2. No delivery customers are served through this post office. *Id.* The Coyote post office, an EAS-11 level facility, has retail access hours of 8:00 a.m. to 1:30 p.m. and 2:00 p.m. to 4:30 p.m., Monday through Friday, and 9:30 a.m. to 11:30 a.m. on Saturday. The lobby is accessible 24 hours per day Monday through Saturday. *Id.*

The postmaster position became vacant on March 1, 2009, when the Coyote postmaster retired. An officer-in-charge (OIC) was installed to operate the office. Retail transactions average seven transactions daily (6 minutes of retail workload). Office receipts for the last 3 years were \$17,358 in FY 2008; \$14,284 in FY 2009; and \$12,353 in FY 2010. *Id.* There were no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$43,408 annually. *Id.* at 6.⁸

After the closure, retail services will be provided by the La Jara post office located approximately 32 miles away.⁹ *Id.* at 2. Delivery service will be provided by rural carrier through the La Jara post office to Cluster Box Units (CBUs) erected in Coyote. *Id.* The La Jara post office is an EAS-11 level office, with retail hours of 7:30

⁵ United States Postal Service Comments Regarding Appeal, November 9, 2011 (Postal Service Comments).

⁶ Reply Brief of the Public Representative, November 25, 2011 (PR Reply Brief).

⁷ United States Postal Service Notice of Filing of Addendum, December 8, 2011 (Addendum). The Addendum includes a new Item No. 52 to the Administrative Record. Addendum ;at 1. The Addendum is dated December 2, 2011, and is signed by the Post Office Discontinuance Coordinator of the Arizona District. *Id.* at 2.

⁸ A one-time expense of \$6,000 will be incurred for the movement of this facility.

⁹ MapQuest estimates the driving distance between the Coyote and La Jara post offices to be approximately 30 miles (36 minutes driving time).

a.m. to 1:00 p.m. and 2:00 p.m. to 4:30 p.m., Monday through Friday, and 7:30 a.m. to 10:30 a.m. on Saturday. *Id.* Two-hundred-fifty-four post office boxes are available. *Id.* at 7. Retail services are also available at the Youngsville post office, an EAS-11 level office, which is located approximately 4 miles away and has 76 post office boxes available.¹⁰ Postal Service Comments at 3. The Postal Service will continue to use the Coyote name and ZIP Code. Final Determination at 2, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Coyote post office. They assert that the post office is a lifeline to most of the community, as Coyote is made up of mostly elderly people who need assistance paying bills and other matters. They also contend that some patrons may not know English, may have other literacy issues, and that some can no longer drive. Petition at 1.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Coyote post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the Coyote community. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes the determination to discontinue the Coyote post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Coyote post office was based on several factors, including:

- the postmaster's retirement;
- a minimal workload;
- low volume;
- low revenue;

¹⁰ MapQuest estimates the driving distance between the Coyote and the Youngsville post offices to be approximately 4.5 miles (7 minutes of driving time).

- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- no recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Coyote community when the Final Determination is implemented. *Id.* 4-5.

The Postal Service also asserts that it has followed all statutorily required procedures and addresses the concerns raised by Petitioners regarding the effect on postal services, effect on the Coyote community, economic savings, and effect on postal employees. *Id.* at 5-11.

Public Representative. The Public Representative discusses the impact of the closing on newspaper delivery, the Postal Service's responsiveness to patrons' concerns, and the Postal Service's estimated cost savings calculations. PR Comments at 5-9. With respect to newspaper delivery, the Public Representative is concerned about a potential delay of delivery if other changes occur such as closing plant processing facilities or closing additional nearby post offices. *Id.* at 5. With respect to responsiveness to patrons' concerns, the Public Representative is concerned that many of the Postal Service's responses appear to be "simply stock responses." *Id.* at 6.¹¹ She believes several patrons responses "warrant responses tailored more closely to providing patrons with concrete information about the Postal Service's rationale and whether certain alternatives were considered." *Id.* at 6.

With respect to anticipated economic savings, the Public Representative points out that the Commission has repeatedly encouraged the Postal Service to provide more accurate, consistent, and transparent savings estimates. *Id.* at 7. While acknowledging

¹¹ In particular, she is concerned about the responses of how the needs of non-English speakers will be met, why Coyote was selected for closure over Youngsville, and whether shorter hours would be a viable alternative to closure. *Id.* at 8.

this Administrative Record is an improvement over others, she notes that there is a “facial discrepancy on the record over whether the facility (a trailer in this case) is owned by the Postal Service or leased.” *Id.* at 7. In addition, she believes the record is unclear as to whether the Postal Service can cancel its current lease or whether the Postal Service is obligated for the full lease term through May 31, 2015. *Id.* The Public Representative also contends that the Postal Service’s savings estimate does not include a one-time expense of \$6,000 for what is referred to in one place as movement of the facility and in another as the cost of cluster boxes and a parcel locker. *Id.* at 7.¹² The Public Representative believes that these savings related errors undermine the public confidence in the Postal Service’s representations and conclusions. *Id.* at 7. She asserts that “[f]ailure to correct these types of errors undermines the accuracy of the record before the final Headquarters decisionmaker, and may affect the soundness of his or her decision.” *Id.* at 8.

V. COMMISSION ANALYSIS

The Commission’s authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service’s determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

¹² There also appears to be, according to the Public Representative, an error in the total for the number of parcels as well as the number of newspapers dispatched during the survey period. *Id.* at 7 and n.6.

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

This proceeding presents an unusual factual circumstance which requires that the matter be remanded to the Postal Service.

Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the Operations manager must "then develop a questionnaire and send it to customers for additional information and comments."

In this case, the cover letter accompanying the questionnaires sent to customers of the Coyote post office, dated March 1, 2011, informed them that the Postal Service "would like to provide pickup and delivery of your mail, as well as the sale of stamps and all other customary postal services, by Highway Contract Route Service emanating from the Youngsville Post Office." Administrative Record, Item 21 at 21. In addition, the questionnaires asked, "How do you think Post Office Box service at the Youngsville Post Office facility will compare to your current service?" *Id.* at 21E.

However, in its official proposal to close the Coyote post office, which was posted March 25, 2011 at the Coyote and La Jara post offices, the Postal Service reversed what was stated in its questionnaire cover letter to Coyote post office customers. The official proposal states that it [Postal Service] is "proposing to close the Coyote, NM Post Office and provide delivery and retail services by Highway Contract Route Service under the administrative responsibility of the La Jara Post Office, located 32 miles away." *Id.* Item 33A at 1.

The change in the proposed administrative office denied the customers an opportunity to inform the Postal Service about concerns they might have had regarding the selection of the La Jara post office before the closure proposal was posted on March 25, 2011. Although the record does not indicate why the La Jara post office was selected instead of the Youngsville post office, the Commission notes that the Youngsville post office is listed in the Retail Access Optimization Initiative as a

candidate for review to be discontinued.¹³ Because the La Jara post office is 32 miles away from the Coyote post office, the change in administrative responsibility from the Youngsville post office, which is 4.8 miles from Coyote versus the actual selection of a post office 32 miles away, is an important fact that should have been revealed to Coyote post office customers prior to the closure proposal.

In addressing customers' concerns, the Final Determination is rife with references to the Youngsville post office as the alternative office. Customers expressed concerns about traveling to Youngsville to pick up their mail. The Postal Service's responses do not indicate that the premise for the comment is wrong and respond as if it is immaterial that the distance to La Jara is almost seven times greater than the distance to Youngsville. Final Determination at 2-5. In this case, the Postal Service needs to do a better job in informing customers of the actual alternatives available to them.

Based on the record before it, the Commission cannot conclude that the Postal Service has satisfied 39 U.S.C. § 404(d). Accordingly, the determination to close the Coyote post office is remanded to the Postal Service for further consideration. In light of this remand, the Commission finds it unnecessary to address other issues related to the appeal.

¹³ See Docket No. N2011-1, USPS-LR-N2011-1-2 Retail Access Optimization Discontinuance Candidate Facility List, July 27, 2011. The Postal Service submitted post-record information indicating that "a request for approval to study the Youngsville, NM Post Office was initiated on August 31, 2011." Addendum at 2, Item No. 22. The Commission's responsibility in adjudicating appeals of Postal Service determinations to close or consolidate post offices is limited to "the record before the Postal Service in the making of such determination[s]." 39 U.S.C. § 404(d)(5). The Addendum seeks to add post-record information for the Commission's consideration on appeal. The Commission has not relied on Item No. 52.

It is ordered:

The Postal Service's determination to close the Coyote, New Mexico post office is remanded.

By the Commission.

Shoshana M. Grove
Secretary